

# **Committee on Resources**

## **Subcommittee on National Parks & Public Lands**

---

### **Testimony**

---

**Statement before the  
Subcommittee on National Parks and Public Lands  
Committee on Resources  
United States House of Representatives  
February 26, 1998  
By**

**Craig W. Mackey  
Public Policy Liaison  
Outward Bound USA**

### **Regarding user fees and the Recreation Fee Demonstration Project**

Mr. Chairman and members of the committee, I would like to thank you for this opportunity to speak with you today on the status of user fees, and the agencies' implementation and administration of the Recreation Fee Demonstration Project.

I speak to you today as a representative of Outward Bound USA, a non-profit educational institution and a leader in wilderness and experiential education. For over 35 years, the Outward Bound system has teamed with America's wild lands to provide adventure-based education to youth and adults. Outward Bound has the privilege of conducting extended backcountry expeditions to teach leadership, personal development, and wilderness skills and values. Simply put, wilderness and public lands are our classroom.

Outward Bound USA is comprised of five wilderness schools and two urban centers. With operations in 25 states and on literally scores of federal land and water management units, Outward Bound has dealt with an astonishing array of federal agency permits, policies, administrative procedures and fees.

### **Commercial Use on Public Lands**

I speak to you today on behalf of Outward Bound, but also as a representative of much broader interests in outdoor education and recreation, including wilderness education, commercial recreation, and outfitters and guides. For this discussion, it is important to note that many non-profit organizations, including wilderness education programs such as Outward Bound, Wilderness Inquiry, the National Outdoor Leadership School (NOLS), and some university-based outdoor education and recreation programs, are categorized by the agencies as full commercial users of federal lands and waters. As such, we are subject to and comply with all agency permitting, insurance, administrative and reporting requirements. And also comply with the full range of franchise and user fees.

As a wilderness education program, Outward Bound values our ongoing partnership with land managers and America's wild lands. Outward Bound recognizes the need for, and merits, of proper administration and management of these resources. This includes establishing and justifying our use on the resource;

performing as an accountable user of public resources; protecting the public health and safety; working with land managers to educate the American people about natural resources, public lands, responsible recreation and wilderness values; and paying an equitable and appropriate share of the cost of administration and management.

It is through these partnerships with land managers that we hope to preserve and protect the wilderness classroom for future generations.

### **Support for Fees**

Outward Bound recognizes our public lands system offers unparalleled opportunities for outdoor recreation and education, and supports the need for fees in exchange for the privilege of operating on public lands, waters and wilderness resources. Payment of reasonable, direct user fees to support resource management and maintenance, preservation and protection, and to continue to provide for the education of American and international constituencies about the value of these resources is, indeed, a small price to pay.

As commercial users, Outward Bound and other members of the wilderness education and outfitter/guide communities are accustomed to paying for this privilege of access to federal lands. Through the payment of franchise fees (concessions contracts and special use permits) to secure access to the resource, and cost recovery programs (permit fees and backcountry fees) for the administration and management of our use, commercial users have been paying our fair share.

Additionally, I would like to note that fees have long been utilized to protect and manage our public lands. Through the years, and particularly with the unveiling of the Recreation Fee Demonstration Project, we have heard the cry from the American public that the government has no business charging fees for the privilege or "right" of access to what are indeed our federal or "public" lands. I would simply point out that as far back as 1908, Mount Rainier National Park began charging entrance fees. More importantly, any member of the public who chooses, or may even find it necessary, to engage the services of an outfitter, guide, or wilderness education institution - for the simple reason of convenience; desire for a particular experience; a lack of knowledge, skill or equipment; or because of a disability - has been paying federal land use fees for decades.

### **The Fee Demonstration Program**

In addition to our recognition of the need for user fees, Outward Bound, along with many other members of the recreation industry, supported the implementation of the Recreation Fee Demonstration Program. We recognized that user fees have been, are now, and will increasingly be a fundamental element in the financing of public land management and maintenance. At least three current trends support this statement:

- Efforts by the Congress to balance the budget and the accompanying need to have individual programs - including public lands - pay their own way.
- The popularity of outdoor recreation and the increasing use of, and demands on, our public lands.
- The shift in emphasis and resources within the agencies toward recreation management.

Our support for fees and the Fee Demonstration Program is predicated on the fact that wilderness is our classroom. Effective management of public lands and administration of outfitter operations, along with the

ability to work effectively in partnership with land managers, are fundamental to our success as a wilderness-based, experiential education institution. To ensure our students of a quality wilderness or public lands experience and the viability of the wilderness classroom for generations to come, land managers must have the resources to:

- Research, develop and implement state-of-the-art resource monitoring and management tools.
- Properly administer and manage all uses and user groups.
- Work effectively in partnership with public land users and supporters.

As partners on the public lands, the wilderness education community can assist the agencies to protect the integrity and long-term viability of the resource, provide quality recreational experiences, ensure the public health and safety, provide for the educational and interpretive needs of the public, and provide access to and education about public lands to a growing and increasingly diverse constituency of public land users.

In recognizing the historical and potential role of educators, outfitters and other commercial users in financing public land recreation, it is critical that Congress and the agencies work collaboratively to ensure that:

- User fees are fair and equitable.
- Fees remain with the resource or the collecting agency, and, to the extent possible, support the payer's activities or interests.
- New fees are used to supplement, not supplant, appropriations for public lands management.

### **The Need for Oversight**

Authorized in 1995 with an intended tenure of three years, and later extended for one year, the Fee Demonstration Program has been a valuable and enlightening experiment. The program has also spawned, as intended, an entrepreneurial atmosphere within the agencies and a parallel attitude within their employees. While Congress and the agencies are clearly looking to user fees as a cornerstone of public lands funding, and commercial users are willing to pay our share, Outward Bound cannot, at this time, support permanent Fee Demonstration legislation.

At this stage in the Fee Demonstration experiment too many fundamental questions remain unanswered. This is best highlighted by the fact that Congress and the public received, on January 31, the first comprehensive status report on the program [Recreational Fee Demonstration Program, Progress Report to Congress, January 31, 1998]. In full support of the Congressional oversight efforts represented by the reporting process and this hearing, Outward Bound requests that Congress honor the full term of Fee Demonstration as authorized and extend the test period if necessary to ensure the program and its ramifications have received full and timely evaluation. At the appropriate time, we would welcome the opportunity to work with the committee to produce effective fee reform legislation.

Outlined below are both general and specific issues which must be addressed to ensure that user fees are fairly and equitably assessed and that both the Fee Demonstration Program and the concept of user fees themselves are favorably embraced by educators, outfitters, other user groups, and the general public.

## Viability of Fees

At this juncture fundamental questions remain unanswered as to the overall viability of user fees as a means of financing individual agency programs, helping to support individual units, or contributing in a meaningful way toward supporting the future health and sustainability of the resources and public land recreation. Many of these questions are raised by the agencies in their own Progress Report to Congress:

- What is the public's capacity to pay user fees?
- What is the general public attitude toward and acceptance of fees?
- How should fees be shared or consolidated in joint fee arrangements?
- Can fees adequately support the full range of agencies programs and units? If not, how should fees be shared among units?
- What is the cost of collection and the best means of minimizing these costs?
- Can fees be equitably assessed across the full range of users?
- Can user fees be counted on in the long term to supplement, not supplant, appropriations?

## Equity

The long-term acceptance of user fees must be based on two principles:

- That the fees are fair and equitable.
- That the public sees tangible results or returns on their investment.

Other elements of equity:

- Compliance: Members of the public choosing to visit public lands through the services of a wilderness education program, outfitter or other commercial operation pay fees at a 100 percent compliance rate. This is true across the spectrum of fees - franchise, entrance, parking, etc. Many non-commercial user groups [Scouts, church groups, and university groups] have traditionally paid no user fees for the privilege of visiting our public lands. And, by their own admission, the agencies are collecting fees from the general public at rates of compliance as low as 25 percent [Progress Report to Congress].

In one example on the Gunnison River in Colorado, the BLM has proposed to use commercial whitewater raft permittees as the direct point of collection on a per head, per day fee - ensuring 100 percent compliance from outfitter customers -- while the general public boater would be exposed only to voluntary collection boxes at a few limited sites on the river.

- Equal access: Fees must not eliminate or discourage access for individuals from lower income brackets. Many new fees need not be considered onerous, such as a percentage jump in entrance or parking fees. However, the Fee Demonstration Program has produced substantial new fees, some of which must be considered impediments to those individuals with fixed or limited incomes. The most prevalent example is the per head, per day fee which, in Outward Bound's experience, has been

proposed as high as \$10 per day and assessed as high as \$5 per day. Congress, the agencies and the public must work collaboratively to determine what portion of the burden users can equitably bear, while ensuring that our federal resources remain a public trust for all Americans to enjoy.

Another consideration is the impact of fees on scholarship programs. Outward Bound and many similar programs fund substantial scholarship programs to expose and educate America's youth on the wonders of wilderness and public lands. As a direct cost of doing business, fee increases will diminish the availability and viability of such funds.

- Annual passes and other exemptions: As the total number and financial impact of fees have increased, the public and organized user groups have increasingly pushed for the authorization of local, regional and national passes. Modeled on the Golden Eagle program, these passes would typically allow unlimited access for payment of an annual fee. While potentially equitable, the proliferation of this type of pass would have tremendous ramifications on the government's and an individual unit's ability to collect revenues. The most obvious example being the elimination of what is clearly the most lucrative fee in the agencies' current portfolio -- the per head, per day fee. Again, important policy questions are being debated and decided, often without consistent agency oversight or direction, and perhaps without sufficient oversight by Congress.
- Consistency: For the long haul, public acceptance of fees will be based on consistency. Is the public being asked to pay more to park at a Forest Service trailhead than in a paved Park Service lot? While this is not necessarily a problem under Fee Demonstration, much work remains to be done to achieve consistency - across user groups - across units - across agencies.
- The Golden Egg: As stated earlier, user fees will clearly become a cornerstone of recreation funding on public lands. And commercial users, accustomed to paying fees, have no objection if they are fair and equitable. However, in the current entrepreneurial atmosphere under Fee Demonstration and with ever increasing lines of authority being delegated to field staff, one could argue that the agencies are indeed out to kill the proverbial goose and her golden eggs. Compliance with fees for commercial users such as Outward Bound and NOLS is 100 percent, and, it seems, every new fee is applied to this sector. Simply stated, we are the easy targets. Such fee burdens could threaten small business, non-profit educators, scholarship programs and could, if continued as policy, turn our public lands into a domain for large, corporate concessioners and a playground for the rich.

### **Private Enterprise**

As wilderness educators, Outward Bound views our relationships with land managers as true working partnerships. We view the ability to access public lands as a privilege that must be earned through working in conjunction with the agencies to meet public demand for quality recreational and educational services, ensure public health and safety, protect the resource, and satisfy the need for quality interpretive services.

In return, land managers need to understand private enterprise. If the government recognizes the public demand for outfitter services and understands the role of the commercial outfitter/educator in meeting that demand, then the government must work with commercial operators to ensure the viability of both for-profit and non-profit operations on public lands:

The fee burden: Historically, the Park Service's Commercial Use License (CUL) or Incidental Business License (IBP), with a typical fee of \$200 to \$300 for a season of commercial use, may have undervalued

both the resource and the agency's administrative role and responsibilities. However, we are rapidly moving to a point where significant jumps in annual franchise fees or cumulative fees are straining the market's ability to pay. In Olympic National Park, NOLS saw their annual fee jump from \$250 to over \$5,000 for the same level of use. In 1997, Outward Bound's commitment to Big Bend National Park was a \$303 IBP fee. In 1998, the combination of the IBP fee, a new \$10 per head entry fee and a newly proposed per head, per day fee will push OB's total to well over \$7,000.

As commercial outfitters, we are accustomed to paying fees and incorporating costs in our tuition structures. As non-profit educational institutions, the increased fees may threaten the type and amount of programming we are able to offer and certainly threaten limitations on the spectrum of students able to participate in quality wilderness education programs. Fees should not render wilderness or public lands the domain of an elite class.

In certain areas the agencies have revamped proposed fees which, based on input from public or commercial users, were determined to be too demanding. In the Boundary Waters Canoe Area of the Superior National Forest, the Forest Service had proposed a per head, per day fee beginning at \$5 per day, with a ceiling of \$10 per day. Based on feedback and negotiations, this fee has now been reduced to a one-time fee per permit or trip (\$100 per commercial permit).

Other examples:

- Region 1 of the Forest Service is considering administrative changes that would allow all or part of annual franchise fees to remain with the collecting resource.
- The Okanogan National Forest implemented parking fees under the Fee Demonstration Program but did not apply the fees to commercial operations.

Multiple fees: One direct result of the Fee Demonstration Program has been a proliferation of fees, the result being fees stacked upon fees, or a "nickel and dime" approach. Commercial operators are often paying as many as four or more separate fees on a given unit. The fees vary per unit and may even vary per visit. The methods of collection vary from an annual fee payable by check to cash at the point of encounter.

Typical fees include:

- Annual franchise fees (Special Use Permit, Concessions Contract, Incidental Business Permit)
- Permit or backcountry fees
- Entrance fees
- Parking fees
- Campground fees
- Fees at the trail head
- Per head, per day fees

The Park Service is issuing directives to avoid obvious duplications:

- Elimination of both an IBP fee and an entrance fee.
- Elimination of both an IBP fee and a commercial tour fee.
- Elimination of both an entrance fee and a parking fee.

Consistency: Fees and, more importantly, fee structures vary. Fees vary from agency to agency and, more importantly, from unit to unit. Kenai Fjords National Park issues a single IBP for sea kayaking, mountaineering and ice climbing. Dinosaur National Monument requires a separate IBP for backpacking and rock climbing.

It should be clarified that uniformity across the agencies is not the goal. Fees need to reflect the differing philosophies, priorities and services provided by the different agencies. Certainly, the average national park visitor expects and receives a different level of service than a visitor to a remote BLM tract. However, consistency in intra-agency fee structures and administrative procedures would greatly increase compliance, as well as lowering administrative costs for the agency and compliance costs for the user.

Notification: Commercial outfitters, both for-profit and non-profit, have found themselves at the mercy of the agencies on the implementation and alteration of fees. Prior to complying with agency fee mandates, commercial operations must be able to establish budgets, set rates, develop marketing strategies, advertise and collect funds. Both Outward Bound and NOLS have experienced fee increases without adequate notification. Lack of notification has left vans full of students waiting outside park gates and instructors searching for cash to pay a new entrance or per head, per day fee. In one case, Outward Bound faces a proposed fee that would increase payments by an estimated \$6,500 a year. The fee increase is proposed for May 1998. As of this testimony, no written notification has been submitted by agency staff.

Billing: One administrative remedy under negotiation is billing authority. Historically, franchise fees have been paid in advance, on an annual or semi-annual basis. All other fees have been on a straight pay-as-you-go basis. With the duplication of fees and the increasing use of per head, per day fees, field staff for the agencies and user groups are being asked to handle increasingly larger financial transactions creating both administrative and safety concerns. Billing authority could greatly simplify the process for both sides, allowing for the consolidation and payment of fees as a single or periodic transaction.

### **How to Proceed**

Fees are the future. The general acceptance of and compliance with fees in the commercial outfitter sector is not an issue. The public's ability and willingness to pay are still being tested and researched. The following points are clear:

- The long-term role of user fees in the financing of public land recreation is yet to be determined, including the public's ability to pay.
- To be successful, fees must be consistent.
- To be successful, fees must be equitable.

For fees to be successful, the public user and the commercial operator must see a return on their investment, including:

- Fees remaining with the resource.
- A knowledge of how fees are being spent.
- Satisfaction that fees are being used to supplement, no supplant, the normal appropriations process.

The Fee Demonstration Program is a valid and useful experiment. The test period should be allowed to run its course, and Congress should be diligent in its oversight responsibility during this time.

Many key questions remained to be answered.

# # #